



**North Carolina Department of Health and Human Services
Division of Mental Health, Developmental Disabilities and Substance Abuse Services**

State Consumer and Family Advisory Committee

Advocacy and Customer Service Section
3009 Mail Service Center
Raleigh, N.C. 27699-3009
Tel 919-715-3197 Fax 919-733-4962

Michael F. Easley, Governor
Dempsey Benton, Secretary

Michael S. Lancaster, M.D. and
Leza Wainwright, Directors
Carl Britton-Watkins, Chairperson

March 19, 2008

To: Legislative Oversight Committee Chairs
Dempsey Benton
Division of MH/DD/SAS Executive Leadership Team

Moving individuals who are receiving services without proper notification to responsible entities is a violation of North Carolina's guardianship laws. Though these failures to give proper notice are not frequent, they do occur occasionally and can cause clients to become "lost" in the N.C. Mental Health, Developmental Disabilities and Substance Abuse (MH/DD/SA) service system, if only for a short time. This should not be happening, especially to minors and incompetent adults. North Carolina's General Statutes 35A - 1105 describe Guardianship law, types of guardianships and the responsibilities involved and include regulations relative to this issue. Adherence to these regulations is important to the safety and welfare of vulnerable individuals and is essential to maintaining the credibility of our service system.

The State Consumer and Family Advisory Committee (SCFAC) was made aware of this problem through a letter from the 4 County Local Management Entity (LME) (now called The Beacon Center) CFAC Chairperson. Local CFAC members requested that the SCFAC give consideration to a list of recommended actions designed to correct the problem that "vulnerable individuals who are currently under guardianship by various entities, receiving services, are being moved without the responsible party (i.e. The LME, Office of Juvenile Justice, etc.) being notified of the physical location of the individual under their supervision." This request originated from an incident of a child being moved without proper notice being given. Apparently, no harm was done to the child but the possibility of harm, abuse or neglect is ever present.

After careful discussion of the local CFAC letter and its recommendations, SCFAC members agreed that they have no authority to enact these recommendations. Such actions would require legislative changes and money allocations beyond the Committee's ability to accomplish. Therefore, SCFAC members voted to appoint a sub-committee to study the extent of and reasons for the problem and to make recommendations for solutions.

This short study is based upon opinion surveys sent to two groups: LME Directors and NC Guardianship Association members. In addition, a discussion of the surveys was held with the Advocacy and Customer Service Forum, consisting of LME staff members and other stakeholders. Results of these studies did confirm that infractions in adhering to guardianship rules do occur in the MH/DD/SA system and that enforcement of these rules is essential to client protection and provider accountability. The surveys further revealed that the



An Equal Opportunity / Affirmative Action Employer

main reasons for the lack of consistent compliance with guardianship regulations were inadequate training for providers and poor instructions to guardians. In addition, LMEs are responsible for monitoring provider services and client records but sometimes services are spread over a wide catchment area which makes adequate monitoring difficult.

Solutions recommended by the 4 County (now called The Beacon Center) CFAC and reinforced by the SCFAC investigation indicate a need for more commitment to training, implementation and enforcement by both service providers and guardians. Whereas most service providers, LME staff members and guardians are conscientious about their responsibilities, some are not. Sanctions, fees and penalties have been recommended when infractions occur.

Submitted by
SCFAC Guardianship Sub-committee members:
Wilda Brown, Chairman
Kathy Crocker
Amelia Thorpe

cc: President Pro Tem Marc Basnight
Speaker Joe Hackney
Patrice Roesler
Yvonne Copeland
James Carr
LME Directors
Beacon CFAC

